

First, it is accurate that both Ms. Strzelecka and Mr. Fredman took the position that the term “maintaining the biomaterial homogeneously suspended” was an intended use limitation. However, when directed to claim 21, Mr. Fredman explicitly acknowledged that this claim, unlike claim 21, was directed to a tissue augmentation material and not just a carrier. Mr. Fredman further acknowledged that this difference was sufficient to eliminate the “intended use” issue from claim 21. Unfortunately, this acknowledgment was not discussed in the May 13 Interview Summary. Applicants therefore respectfully request that this statement be formally entered into the record.

Second, the Interview Summary states that “since claims 1 and 21 do not have the priority date of 1992, claim 14, which depends from claim 1, does not have a priority date of 1992”. Although Ms. Strzelecka made this assertion during the interview, it was not agreed upon by the parties as the summary suggests. Applicants fully reserve the right to raise this issue in the future.


If the Examiner or her supervisor has any questions concerning the issues raised herein, they are strongly encouraged to contact either Michael Rechtin at (312) 832-4586, or Marshall Brown at (312) 832-4358, at their earliest convenience.

No fee is thought to be due with this submission. However, the Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1450. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1450. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1450.

Respectfully submitted,

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